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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
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12 JAWANTA J. LAMBERT,
13 CDCR #V-42105,

14 Plaintiff,

15 vs.

16 J. MARTISON; DOMINGO URIBE,
17 Jr.; D. DAVIS; J. SAIS; L.
18 CALDERON; and D. FOSTON,

19 Defendants.

CASE NO. 10-CV-1978 JLS
(MDD)

**ORDER DENYING MOTION
FOR APPOINTMENT OF
COUNSEL**

(ECF No. 43)

20 Presently before the Court is Plaintiff Jawanta J. Lambert's ("Plaintiff") Motion
21 for Appointment of Counsel. (ECF No. 43.) Plaintiff contends that the complex nature
22 of his case, as well as limited access to legal materials or the help of other inmates, has
23 made it difficult for him to proceed *pro se*.

24 While there is no right to counsel in a civil action, a court may, under
25 "exceptional circumstances," exercise its discretion and "request an attorney to
26 represent any person unable to afford counsel." 28 U.S.C. § 1915(e)(1); *Palmer*
27 *v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). This discretion may be exercised
28 only under "exceptional circumstances." *Terrell v. Brewer*, 935 F.2d 1015, 1017
(9th Cir. 1991). "A finding of exceptional circumstances requires an evaluation

1 of both ‘the likelihood of success on the merits as well as the ability of the
2 [Plaintiff] to articulate his claims *pro se* in light of the complexity of the legal
3 issues involved.’” *Palmer*, 560 F.3d at 970 (quoting *Weyandt v. Look*, 718 F.2d
4 952, 954 (9th Cir. 1983)). “Neither of these issues is dispositive and both must
5 be viewed together before reaching a decision.” *Id.* (citing *Wilborn v.*
6 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

7 Applying these standards, the Court finds that Plaintiff has not satisfied the
8 stringent standards required for an appointment of counsel under 28 U.S.C. §
9 1915(e)(1). Plaintiff’s allegations in the present motion do not address, much less
10 establish, a likelihood of prevailing on the merits. And while the Court is
11 sympathetic to the difficulties prisoners face in preparing and filing legal
12 documents and conducting discovery, these considerations alone do not render the
13 legal issues themselves complex. *See Wilborn v. Escalderon*, 789 F.2d 1328,
14 1331 (9th Cir. 1986) (holding that discovery concerns and difficulty preparing
15 motions do not constitute complex legal issues). Accordingly, Plaintiff’s Motion
16 for Appointment of Counsel must be **DENIED** at this time **WITHOUT**
17 **PREJUDICE**.

18 However, the Court notes that, pursuant to General Order 596, which
19 adopted a Plan for the Representation of *Pro se* Litigants in Civil Cases, “the
20 Court may appoint counsel for purposes of trial as a matter of course in each
21 prisoner civil rights case where summary judgment has been denied.” S.D. Cal.
22 General Order No. 596. Accordingly, Plaintiff may file a renewed motion for
23 appointment of counsel at an appropriate time prior to commencement of trial.

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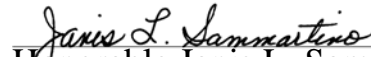
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1 The Court further notes that Plaintiff's claims against all Defendants except for
2 Defendant L. Valenzuela were dismissed without prejudice; the case, however, remains
3 closed. (Order, ECF No. 36.) The Court informs Plaintiff that he may file an amended
4 complaint if he so desires.

5 **IT IS SO ORDERED.**

6 DATED: September 20, 2013

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8 Honorable Janis L. Sammartino
9 United States District Judge
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